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| AMERICAN GEOTECH INC., |) | AGBCA No. 2000-162-1 |
| |) | |
| Appellant |) | |
| |) | |
| Representing the Appellant: |) | |
| |) | |
| Robert W. Miller |) | |
| President |) | |
| American Geotech Inc. |) | |
| P. O. Box 26176 |) | |
| Salt Lake City, Utah 84126-0176 |) | |
| |) | |
| Representing the Government: |) | |
| |) | |
| Elise Foster |) | |
| Office of the General Counsel |) | |
| U. S. Department of Agriculture |) | |
| 507 25 th Street, Room 205 |) | |
| Ogden, Utah 84401-2450 |) | |

DECISION OF THE BOARD OF CONTRACT APPEALS

May 31, 2001

Before HOURY, POLLACK, and WESTBROOK, Administrative Judges.

Opinion for the Board by Administrative Judge WESTBROOK.

This appeal arises out of Contract No. 50-8499-7-011 between the U. S. Department of Agriculture, Forest Service, Ashley National Forest, Utah (Respondent or FS), and American Geotech Inc., of Salt Lake City, Utah (Appellant or American Geotech). Work under the contract consisted of constructing four new comfort stations and remodeling five existing comfort stations in the North Fork Area of the Forest. On July 27, 2000, the Board received from Appellant a timely appeal from a final decision of the Contracting Officer (CO) assessing \$1,209.84 in administrative damages for failure to complete work under the contract within the contractual performance period. This appeal was docketed as AGBCA No. 2000-162-1.

The Board has jurisdiction of this appeal under the Contract Disputes Act of 1978 (CDA), 41 U.S.C. §§ 601-613, as amended.

This appeal arises out of Contract No. 50-8499-7-011 awarded to Appellant September 10, 1997, by

the U. S. Department of Agriculture, Forest Service, Ashley National Forest, Utah, for the construction of four new comfort stations and the remodeling of five existing comfort stations in the North Fork Area. The Board received Appellant's notice of appeal on July 26, 2000. The appeal was from the CO's decision of May 21, 2000, assessing \$1,209.84 in damages for late contract completion.

Appellant filed a Complaint received at the Board September 1, 2000. Respondent's Answer filed at the Board October 20, 2000, included a section entitled "Counter-claim" in which it sought damages in the amount of \$1,700 for revenues allegedly lost as a result of late completion. Because of evidence that the CO had not issued a decision on the matter alleged in the counterclaim, the Board provided Respondent the opportunity to show cause why its "Counter-claim" should not be dismissed for lack of jurisdiction. Thereafter, by a ruling dated January 26, 2001, the Board dismissed the Counter-claim for lack of jurisdiction. American Geotech Inc., AGBCA No. 2000-162-1, 01-1 BCA ¶ 31,257.

After issuance of that ruling, the Board contacted the parties to arrange a conference to schedule further proceedings on the original appeal. At that time the Board was informed that the parties had settled the appeal. Appellant has now notified the Board in writing that the terms of the settlement agreement have been satisfied and requested that the appeal be withdrawn.

DECISION

The parties having settled the appeal, the Board hereby dismisses it with prejudice.

ANNE W. WESTBROOK
Administrative Judge

Concurring:

EDWARD HOURY
Administrative Judge

HOWARD POLLACK
Administrative Judge

Issued at Washington, D.C.
May 31, 2001